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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2013-97

14 **ELAINE HAGGARD**
15 **125 N Washington Box 190**
16 **Lewisville, ID 83431**

DEFAULT DECISION AND ORDER

17 **Registered Nurse License No. 625386**

[Gov. Code, §11520]

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RESPONDENT

FINDINGS OF FACT

1. On or about August 8, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-97 against Elaine Haggard (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about September 3, 2003, the Board of Registered Nursing (Board) issued Registered Nurse License No. 625386 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on October 31, 2004 and has not been renewed.

3. On or about August 8, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-97, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

125 N Washington Box 190

Lewisville, ID 83431.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about September 6, 2012, the signed Certified Mail Receipt was returned to our
5 office indicating a delivery date of August 30, 2012.

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
18 No. 2013-97.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated August 8, 2012, signed by Kami Pratab, finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Accusation No. 2013-97 and the documents contained in Default Decision Investigatory Evidence
27 Packet in this matter which includes:
28

- 1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2013-97,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;
- 6 Exhibit 2: License History Certification for Elaine Haggard, Registered Nurse
7 License No. 625386;
- 8 Exhibit 3: Out of State Discipline (Idaho State Board of Nursing);
- 9 Exhibit 4: Affidavit of Kami Pratab;
- 10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2013-97.

12 The Board finds that the charges and allegations in Accusation No. 2013-97 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$985.00 as of September 25, 2012.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Elaine Haggard has subjected
21 her following license(s) to discipline:

22 a. Registered Nurse License No. 625386

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary
28 action by another State Board of Nursing.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 625386, heretofore issued to Respondent Elaine Haggard, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 14, 2013.

It is so ORDERED December 14, 2012



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2013-97

Exhibit A

Accusation No. 2013-97

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-97**

13 **ELAINE HAGGARD**
14 **125 N. Washington, Box 190**
15 **Lewisville, ID 83431**

A C C U S A T I O N

16 **Registered Nurse License No. 625386**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about September 3, 2003, the Board of Registered Nursing issued Registered
25 Nurse License Number 625386 to Elaine Haggard (Respondent). The Registered Nurse License
26 expired on October 31, 2004, and has not been renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board under the authority of the following

1 laws. All section references are to the Business and Professions Code (Code) unless otherwise
2 indicated.

3 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
4 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
5 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6 5. Code section 2764 provides that the expiration of a license shall not deprive the
7 Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a
8 decision imposing discipline on the license.

9 STATUTORY PROVISIONS

10 6. Code section 2761 states that the board may take disciplinary action against a
11 certified or licensed nurse for any of the following:

12 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

13 “... ”

14 “(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
15 against a health care professional license or certificate by another state or territory of the United
16 States, by any other government agency, or by another California health care professional
17 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
18 action.”

19 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

20 7. Code section 4021 states that a “‘Controlled substance’ means any substance listed in
21 Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

22 8. Code section 4022 sets forth that a “‘Dangerous drug’ or ‘dangerous device’ means
23 any drug or device unsafe for self-use in humans or animals, and includes the following:

24 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
25 prescription,’ ‘Rx only’ or words of similar import.

26 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
27 by or on the order of a _____,’ ‘Rx only,’ or words of similar import . . .

28 ///

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

9. THC, also known as Tetrahydrocannabinol; is a compound that is obtained from cannabis or is made synthetically; it is the primary intoxicant in Marijuana. Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054 and a dangerous drug as designated by Business and Professions Code section 4022.

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Out of State Discipline)
(Bus. & Prof. Section 2761, subd. (a)(4))

11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about July 23, 2007, in a disciplinary matter before the Idaho State Board of Nursing (Idaho State Board), Case No. BON 07-007, the Idaho State Board entered a final order permanently revoking Respondent's license to practice professional nursing in the State of Idaho.

12. Circumstances underlying the Board's final order are that on or about March 29, 2007, Respondent voluntarily surrendered her license, Number. N-18047, and admitted that she tested positive for THC. Respondent further agreed to immediately enter treatment, participate in a monitoring program and to resume the practice of nursing only at such time as a conditional limited license is issued to her. On or about June 5, 2007, the Idaho State Board was notified of Respondent's failure to enter treatment and participate in a monitoring program.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

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- 1 1. Revoking or suspending Registered Nurse License Number 625386, issued to Elaine
- 2 Haggard;
- 3 2. Ordering Elaine Haggard to pay the Board of Registered Nursing the reasonable costs
- 4 of the investigation and enforcement of this case, pursuant to Business and Professions Code
- 5 section 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.
- 7
- 8

9 DATED:

August 8, 2012

for

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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